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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session
Agenda item 21

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SECOND SESSION

Rapporteur: Mr. Gilberto Vergne Saboiá

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A. RESOLUTIONS

1990/24. Encouragement of universal acceptance of human rights instruments

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1 B (XXXII) of 5 September 1979, 19 (XXXIV) of 10 September 1981, 1982/3 of 7 September 1982, 1983/27 of 6 September 1983, 1984/36 of 30 August 1984, 1985/5 of 27 August 1985, 1988/30 of 1 September 1988 and its decision 2 (XXXIII) of 11 September 1980 on the encouragement of universal acceptance of human rights instruments,

Having considered the note by the Secretary-General (E/CN.4/Sub.2/1990/38) on the question, in which it is stated, inter alia, that no additional information has been received from States pursuant to Sub-Commission resolution 1 B (XXXII) since the Sub-Commission's fortieth session,

Convinced that attaining universal acceptance and implementation of international instruments in the field of human rights is of primary importance for the protection and promotion of human rights,

1. Decides to include the Convention on the Rights of the Child in the list of human rights instruments under paragraph 1 of Sub-Commission resolution 1 B (XXXII), as complemented by its resolutions 1982/3, 1983/27, 1984/36 and 1985/5;

2. Expresses its appreciation for the programme of advisory services in the field of human rights by which the ratification of, or accession to, the international instruments on human rights have been accelerated;

3. Requests the Secretary-General further to promote the said programme so that practical assistance in the process of ratification and implementation of international instruments on human rights be available for those States which indicate a need for such assistance;

4. Requests the Secretary-General to renew the invitation for submission of information contained in his earlier notes verbales to the Governments of Member States which have not yet replied to those communications, making particular reference to the human rights instruments to which those Governments have not yet become party and drawing the attention of each Government to the instruments which it has already signed but not ratified;

5. Requests also the Secretary-General to continue holding informal discussions concerning prospects for ratification of human rights instruments

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with government delegations on the occasion, for example, of the sessions of the General Assembly and the Commission on Human Rights, priority being given to the instruments prepared by the Commission on Human Rights such as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the First Optional Protocol to that Covenant, the International Convention on the Elimination of all Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child;

6. Requests further the Secretary-General to continue to inform the Sub-Commission, as appropriate, on his endeavours under the present resolution and to update the table containing a country-by-country record of developments which have taken place in connection with the ratification of, or accession to, the human rights instruments included in the terms of reference of the Sub-Commission;

7. Decides to request the Chairman of the Sub-Commission to appoint, prior to its forty-fourth session, one of its members to report to it at that session on information received under the present resolution, to analyse difficulties impeding ratification of, or accession to, the above-mentioned instruments and to assess the programme of advisory services in the field of human rights with a view to further encouraging universal acceptance of human rights instruments;

8. Decides to continue the consideration of the agenda item entitled "Encouragement of universal acceptance of human rights instruments" at its forty-fourth session and at subsequent alternate sessions of the Sub-Commission.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XV.]

1990/25. Ownership and control of the cultural property of indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Conscious of the past and continuing destruction and confiscation of indigenous peoples' skeletal remains, burial artifacts and other objects of

religious and cultural significance which has accompanied the colonization of indigenous territories and resources,

Aware also of extensive international traffic in indigenous cultural property and of the inappropriate display of items of considerable religious and cultural significance to indigenous peoples in the collections of museums, universities and other institutions, public and private, throughout the world,

Deeply concerned that the denial to indigenous peoples of the ownership and control of these items causes them considerable anguish, undermines the revitalization and strengthening of their cultures and traditions and interferes with the pursuit of their political, economic, social, religious and cultural development in conditions of freedom and dignity,

Noting with concern the lack of response by most institutions to the repeated and longstanding requests of indigenous peoples for the return of their skeletal remains, burial artifacts and other objects of religious and cultural significance,

Greatly appreciating however recent instances of the voluntary return of indigenous peoples' skeletal remains by a number of institutions of international standing,

Appreciating also the efforts of organizations such as United Nations Educational, Scientific and Cultural Organization in documenting the locations of the cultural property of indigenous peoples in collections throughout the world,

Noting with interest the announcement by the Government of Australia to the eighth session of the Working Group on Indigenous Populations of the development of a national position and strategy for the return of significant indigenous cultural material, particularly skeletal material, from overseas collections,

Noting the provisions contained in the working text of the draft universal declaration on the rights of indigenous peoples as contained in annex II to the report of the Working Group on Indigenous Populations on its eighth session (E/CN.4/Sub.2/1990/42); in particular, the rights of indigenous peoples to protection against ethnocide and cultural genocide (para. 5); to preserve their cultural identity and traditions and to pursue their own cultural development, including the rights to control and maintain the manifestations of their cultures (para. 6); and to manifest, teach, practise and observe their own spiritual traditions, customs and ceremonies, to

maintain, protect and have access in privacy to sacred sites, ceremonial implements, natural materials and burial grounds for these purposes, and the right to the repatriation of human remains (para. 8),

1. Requests all individuals and all museums, universities and other institutions, public and private, to prepare comprehensive lists of all indigenous peoples' skeletal remains, burial artifacts and other items of religious and cultural significance to indigenous peoples which are in their possession and to disseminate these lists widely among indigenous peoples;

2. Requests also all such individuals and institutions to start negotiations with indigenous owners with a view to returning their items to them;

3. Recommends that Governments take necessary and effective steps so that all individuals and all museums, universities and other institutions, public and private, return, at the earliest possible time, the ownership and control of all indigenous peoples' skeletal remains, burial artefacts and other items of religious and cultural significance to indigenous peoples which are in their possession to their indigenous owners;

4. Entrusts Mrs. Erica-Irene Daes with the preparation of a working paper, on the question of the ownership and control of the cultural property of indigenous peoples for submission to the ninth session of the Working Group on Indigenous Populations;

5. Requests all organs and bodies of the United Nations system with relevant expertise, including United Nations Educational, Scientific and Cultural Organization, to provide Mrs. Daes with the information and assistance she may require for the completion of this task;

6. Requests the Secretary-General to give to Mrs. Erica-Irene A. Daes all the assistance she may require to carry out her work successfully.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVI.]

1990/26. Draft universal declaration of indigenous rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1985/22, which endorsed the decision of the Working Group on Indigenous Populations to emphasize its standard-setting activities, with the aim of producing a draft declaration on indigenous rights which may be proclaimed by the General Assembly,

Recalling also its resolution 1989/34 of 1 September 1989, which endorsed the proposal to invite Governments and indigenous peoples' organizations to participate in informal, in-sessional and open-ended drafting groups to seek agreement on recommendations which might be made for consideration by the Working Group, and recommended that the Working Group be authorized to meet for 10 working days prior to the forty-second and forty-third sessions of the Sub-Commission for this purpose,

Taking note that the Economic and Social Council, by its decision 1990/238 of 25 May 1990, authorized the Working Group to meet for 10 serviced meetings in the 10 working days prior to the forty-second session of the Sub-Commission, for the purpose of intensifying its efforts to complete the draft declaration, in consultation with interested Governments and organizations of indigenous peoples,

Believing that the Working Group can best fulfil its standard-setting task with the greatest possible direct participation of and consultation with interested Governments and organizations of indigenous peoples, and that this will require efforts to increase the accessibility of the sessions of the Working Group to indigenous peoples from the developing countries,

Reaffirming the decision of the Working Group, at its first session, that its working languages are Spanish and English,

Recognizing the importance of ensuring that the activities of the Working Group are better known in every country, in accordance with Commission on Human Rights resolution 1983/23 of 4 March 1983, and welcoming in this regard the publication of a fact sheet on the rights of indigenous peoples as part of the World Campaign for Human Rights,

Having examined with satisfaction and appreciation the analytical commentary on the first revised text of the draft declaration (E/CN.4/Sub.2/1990/39), which was prepared by the Chairman/Rapporteur of the Working Group, Mrs. Daes, as well as the report and recommendations of the Working Group on its eighth session (E/CN.4/Sub.2/1990/42),

Convinced of the urgent need to promote and protect the rights of indigenous peoples by means of a continued and comprehensive review of developments in this field, as well as through the evolution of standards, particularly by means of the preparation of a draft declaration,

1. Expresses its appreciation to the Working Group, and especially to its Chairman/Rapporteur, Mrs. Daes, for the progress made at its eighth session in carrying out its standard-setting mandate, with particular reference to its

adoption of more comprehensive working drafts of the declaration of the rights of indigenous peoples, in consultations with Governments and organizations of indigenous peoples (E/CN.4/Sub.2/1990/42, annexes);

2. Expresses its deep satisfaction with the continued constructive participation of observers for Governments, indigenous peoples, specialized agencies, and non-governmental organizations, in the annual sessions of the Working Group;

3. Endorses the working methods adopted by the Working Group at its eighth session, including the establishment of informal drafting groups, and the facilitation of a dialogue between indigenous peoples, members of the Working Group, and Governments on developments in various parts of the world;

4. Encourages Governments and indigenous peoples to meet together at the national and regional levels, with the aim of seeking understanding and agreement on the principles which are contained in the draft declaration;

5. Welcomes the contributions made by Governments, indigenous peoples and non-governmental organizations to the United Nations Voluntary Fund for Indigenous Populations, which was able to facilitate the participation of a significant number of representatives of indigenous peoples in the eighth session of the Working Group, and encourages continued and increased support for the activities of the Fund;

6. Recommends that the Board of Trustees of the Voluntary Fund give priority to applications for assistance from indigenous organizations in the developing countries;

7. Appeals to Governments, indigenous peoples, and non-governmental organizations to consider also making contributions to the Voluntary Fund for Advisory Services in the Field of Human Rights, to support training courses and informational activities aimed at preparing indigenous peoples' organizations to play a more effective role in the Working Group;

8. Requests the Secretary-General:

(a) To transmit the Working Group's report to Governments, indigenous peoples, intergovernmental and non-governmental organizations, as soon as possible after the present session of the Sub-Commission, for specific comments and suggestions aimed at the clarification, simplification, and generalization of the texts contained in the annexes to its report;

(b) To ensure that all meetings of the Working Group at its ninth and future sessions are provided with interpretation and documentation in both Spanish and English;

(c) To prepare a brief note on the financial implications of convening one or more of the future sessions of the Working Group in Latin America or Asia, for consideration by the Working Group at its ninth session;

(d) To organize a regional training course in Latin America on the United Nations, human rights, and indigenous peoples, as a matter of the highest priority, and in accordance with Sub-Commission resolution 1989/35, and for this purpose to utilize to the greatest possible extent the expertise of the members of the Working Group and of indigenous peoples' organizations;

(e) To give all necessary assistance to the Working Group in discharging its tasks, including the more effective dissemination of information about its activities to indigenous peoples in every country to encourage their wider participation;

9. Recommends that the Chairman-Rapporteur of the Working Group, Mrs. Daes, be entrusted with the task of preparing an extensive analytical commentary on the articles of the draft declaration, based on her first revised text, the reports of the informal drafting groups, the debate at the eighth session of the Working Group, the written observations received in accordance with paragraph 8 (a) above, existing international human rights instruments, and other available comments;

10. Welcomes the assistance provided by the United Nations Centre on Transnational Corporations, in accordance with Sub-Commission resolution 1989/35, in compiling information on investments and operations on the lands of indigenous peoples, including lands currently in dispute, and encourages the widest possible participation in this study;

11. Reiterates its recommendation that the reports of the Working Group should be made available to the Commission on Human Rights at each of its sessions;

12. Decides to examine these issues at its forty-third session as a matter of high priority, under the item entitled "Discrimination against indigenous peoples";

13. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, noting Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1990/26 of 31 August 1990, decides to recommend to the Economic and Social Council that the Working Group on Indigenous Populations be authorized to meet for 10 working days prior to the forty-third session of the

Sub-Commission, for the purpose of intensifying its efforts to complete a draft declaration on the rights of indigenous peoples in consultation with interested Governments and organizations of indigenous peoples."

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVI.]

1990/27. Economic and social relations between indigenous peoples and States

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming its resolution 1989/35 of 1 September 1989, by which it recommended that the Secretary-General be authorized to consider requests from indigenous peoples' organizations for technical assistance in the fields of human rights, development, and the environment,

Recalling also its decision 1989/112 of 1 September 1989, by which it recommended the agenda and working methods for the meeting of experts on indigenous self-government, which was authorized by General Assembly resolution 42/47 of 30 November 1987,

Recalling that Economic and Social Council decision 1990/238 of 25 May 1990 approved the convening of a United Nations technical conference on achieving environmentally sound and sustainable self-development for indigenous peoples,

Noting the preparations which are being made for the United Nations Conference on Environment and Development, to be convened in 1992,

Guided by the conclusions and recommendations of the seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States (E/CN.4/1989/22),

Mindful of the provisions of Convention No. 169 of the International Labour Organisation, in particular with regard to the right of indigenous peoples to control their own economic, social, and cultural development,

Convinced that a principal means of strengthening indigenous peoples' enjoyment of their fundamental rights, in accordance with the Declaration on the Right to Development, is to increase their direct participation in the planning, implementation and benefits of all forms of development which may affect them,

Convinced also that exchanges of practical experiences and examples, through seminars and meetings involving experts from both Governments and indigenous peoples' organizations, will help promote the wider adoption of successful measures for the realization of indigenous peoples' rights, and mobilize international co-operation for this purpose,

Conscious that indigenous peoples occupy and use many of the world's most fragile ecosystems, depend upon these ecosystems for their survival and development, and possess irreplaceable knowledge of them,

Believing that indigenous peoples must play a central role as users and managers of such ecosystems,

Having examined with interest the report and relevant recommendations of the Working Group on Indigenous Populations (E/CN.4/Sub.2/1990/42),

1. Recommends that the United Nations Conference on Environment and Development provide indigenous peoples' organizations with effective means of participating directly in its work, and that any new conventions which may be adopted regarding biodiversity, or conserving renewable resources, provide explicitly for the role of indigenous peoples as resource users and managers, and for the protection of indigenous peoples' right to control of their own traditional knowledge of ecosystems;

2. Invites the Special Rapporteur on human rights and the environment, Ms. Ksentini, to take into account the special relationship between fragile habitats and indigenous peoples, especially with respect to sustainability, and also invites the Special Rapporteur on compensation for human rights violations, Mr. van Boven, to address indigenous concerns in his forthcoming reports to the Sub-Commission;

3. Requests the Secretary-General to:

(a) Convene, as soon as possible, the meeting of experts on indigenous self-government, and the technical conference on achieving environmentally sound and sustainable self-development for indigenous peoples, and to include indigenous experts among the invitees in accordance with existing practice;

(b) Bring this resolution to the attention of the Secretary-General of the United Nations Conference on Environment and Development and chairman of the Preparatory Committee for the Conference, drawing their attention in particular to the recommendations contained in paragraph 1, and invite them to indicate what steps they may be able to take in accordance with those recommendations;

(c) Arrange for the Centre for Human Rights to enter into discussions with United Nations operational programmes in development and environment, regarding possible mechanisms and guidelines for promoting the rights of indigenous peoples through their direct participation in the planning and implementation of projects;

(d) Invite the World Intellectual Property Organization to prepare, in consultation with other appropriate specialized agencies and indigenous peoples' organizations, recommendations concerning the protection of the intellectual property of indigenous peoples, for discussion at the Working Group's ninth session;

(e) Submit a report to its forty-third session on the measures taken to implement this resolution, and the results achieved.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVI.]

1990/28. Study on treaties, agreements and other constructive arrangements between States and indigenous populations

The Sub-Commission on Prevention of Discrimination and Protection of Peoples,

Having examined the report of its Working Group on Indigenous Populations on its eighth session (E/CN.4/Sub.2/1990/42), in particular, the working paper and questionnaire submitted by the Special Rapporteur, Mr. Miguel Alfonso Martínez (annex VI thereof),

1. Takes note of the working paper and questionnaires submitted by the Special Rapporteur;

2. Requests the Secretary-General to submit the above-mentioned questionnaires to all Governments, intergovernmental organizations and non-governmental organizations, as well as to indigenous organizations and/or representatives of indigenous peoples who have attended the sessions of its Working Group, requesting them to submit to the Special Rapporteur any information they would consider useful for the report not later, if possible, than 30 April 1991;

3. Requests the Special Rapporteur to submit a preliminary report on his study to the Working Group at its ninth session and to the Sub-Commission at its forty-third session;

4. Requests the Secretary-General to provide the Special Rapporteur with all the assistance to carry out his study in particular the necessary consultancy originally foreseen and a study trip to both Washington and Seville.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVI.]

1990/29. International year of the world's indigenous peoples

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its recommendation, by its resolution 1988/19 of 1 September 1988, that an international year for the promotion of indigenous rights be proclaimed in 1993,

Recalling also its resolution 1989/36 of 1 September 1989, by which it entrusted two of its members, Mr. Eide and Ms. Mbonu, with the task of preparing a working paper on possible United Nations activities for an international year for indigenous rights, with an explicit focus on the development process and on promoting international co-operation with indigenous peoples,

Taking note of the recommendation by the Economic and Social Council, in its decision 1990/248 of 25 May 1990, that the General Assembly proclaim an international year for the world's indigenous people,

Having examined with appreciation the working paper prepared by Mr. Eide and Ms. Mbonu (E/CN.4/Sub.2/1990/41),

Convinced that all United Nations programmes and specialized agencies can make practical contributions to protecting the rights and improving the conditions of indigenous peoples, particularly in the developing countries, through direct co-operation with indigenous peoples organizations,

1. Expresses its appreciation to Mr. Eide and Ms. Mbonu for their excellent working paper (E/CN.4/Sub.2/1990/41) on possible United Nations activities to be undertaken in connection with such a year, if it is approved by the General Assembly, and expresses its belief that their recommendations form a good basis for future action;

2. Reaffirms the recommendations contained in its resolution 1989/36 of 1 September 1989, regarding the timing, aims, and administration of such a year;

3. Requests the Secretary-General:

(a) To transmit the working paper of Mr. Eide and Ms. Mbonu, through the Commission on Human Rights, to the Economic and Social Council;

(b) To bring the working paper, together with the recommendations contained in its resolution 1989/36, to the attention of the forty-fifth session of the General Assembly in connection with its consideration of Economic and Social Council resolution 1990/248;

(c) To report to the forty-third session of the Sub-Commission on the disposition of the recommendations contained in Economic and Social Council decision 1990/248, Sub-Commission resolution 1989/36, and the present resolution;

4. Requests Mr. Eide and Ms. Mbonu to submit, at its forty-third session, a second working paper providing more specific suggestions for activities that might be carried out at the national and international levels, indicating the geographical scope and the relevant groups which should be encouraged to participate in the activities of the year;

5. Further requests Mr. Eide and Ms. Mbonu to evaluate the achievements made when the programme has been carried out, at the end of the international year.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVI.]

1990/30. Report of the Working Group on Contemporary Forms of Slavery

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of the report of its Working Group on Contemporary Forms of Slavery on the work of its fifteenth session (E/CN.4/Sub.2/1990/44),

Deeply concerned at the information relating to the exploitation of child labour, debt bondage, the sale of children, child prostitution and child pornography, the traffic in persons and the exploitation of the prostitution of others, slavery-like practices of apartheid and colonialism, and the phenomenon of child soldiers,

1. Expresses its appreciation to the Working Group on Contemporary Forms of Slavery for its valuable work, in particular the progress made at its fifteenth session in executing its programme of work, and for its continued broad approach and flexible methods of work;

A. Exploitation of child labour and debt bondage

2. Notes with satisfaction that the Working Group decided to make the problem of exploitation of child labour and of debt bondage the main theme of its fifteenth session and has defined a programme of action to combat these intolerable practices;

3. Welcomes the adoption by the General Assembly of the Convention on the Rights of the Child and calls on States to ratify it;

4. Also welcomes the forthcoming World Summit for Children to be held under the auspices of the United Nations in September 1990;

5. Requests the Commission on Human Rights to authorize it to consider the possibility of appointing a special rapporteur to update Mr. Abdelwakhab Bouhdiba's report on the exploitation of child labour and extend that study to the problem of debt bondage;

6. Invites the Secretary-General to recommend to the International Labour Organisation to consider the possibility of holding a seminar or workshop on debt bondage, in relation to and co-ordination with other organizations and agencies of the United Nations;

B. Sale of children, child prostitution and child pornography

7. Welcomes the decision of the Commission to transmit the programme of action adopted by the Working Group at its fourteenth session to Governments, intergovernmental organizations and non-governmental organizations, and requests the Secretary-General to submit an analytical summary of the replies received to the Commission at its forty-seventh session;

8. Takes note of the information and proposals relating to this programme supplied to the Working Group at its fifteenth session;

9. Decides to transmit this information and these proposals to the Commission on Human Rights and to request the Secretary-General to include them in the analytical summary;

10. Welcomes the appointment of Mr. Vitit Muntarbhorn as Special Rapporteur of the Commission on Human Rights for a term of two years, to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes;

11. Takes note of the information supplied to the Working Group on these problems and decides to transmit this information to the Special Rapporteur, including the recommendations concerning his mandate; invites the Rapporteur to examine ways and means of co-operating with the Working Group on

Contemporary Forms of Slavery and to seek the possibility of conducting his consultations with the Centre for Human Rights during the period of the sixteenth session of the Working Group on Contemporary Forms of Slavery;

12. Requests the Centre for Human Rights to obtain, for the 1991 session of the Working Group, the reports of the meetings recommended within the framework of the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and other international bodies, on the traffic in persons, prostitution, the traffic in children for purposes of adoption and organ transplants, and on other subjects within the mandate of the Working Group;

C. Child soldiers

13. Expresses its deep concern at the fact that in many regions of the world children are still taking part in hostilities and are being recruited into the armed forces, and that certain Governments and non-governmental entities encourage and sometimes compel children to take part in military training and participate in hostilities;

14. Deplores the fact that many child soldiers have been killed or seriously wounded and that others are languishing as prisoners of war;

15. Welcomes the decision of the Working Group to place this question on the agenda for its sixteenth session and invites the Working Group to make recommendations;

D. Miscellaneous

16. Requests the Working Group to study the possibility of preparing guiding principles to combat the various contemporary forms of slavery, endeavouring to identify the spheres in which such guiding principles could be applied;

17. Recommends the Human Rights Committee, when it examines the periodic reports of States parties to the International Covenant on Civil and Political Rights, to give increased attention to the implementation of the provisions of articles 8 and 24 of the Covenant, with a view to the elimination of acts which gravely impair the rights of the child, in particular contemporary forms of slavery;

18. Recommends to the Committee on Economic, Social and Cultural Rights, when it examines the periodic reports of States parties to the International Covenant on Economic, Social and Cultural Rights, to give particular attention to the implementation of articles 10, 12 and 13, with a view to improving the situation of children and eliminating the contemporary forms of slavery affecting children and the exploitation of child labour;

19. Recommends to the Committee on the Elimination of Discrimination against Women, when it examines the reports of States parties to the Convention on the Elimination of All Forms of Discrimination against Women, to give particular attention to the implementation of the provisions of article 6, with a view to the suppression of all forms of traffic in women;

20. Recommends to the International Labour Organisation supervisory bodies and the United Nations Educational, Scientific and Cultural Organization Committee on Conventions and Recommendations to give particular attention in their work to the implementation of provisions and standards designed to ensure protection of children and other persons exposed to contemporary forms of slavery, such as the sale of children, child prostitution and child pornography, the exploitation of child labour, bonded labour and the traffic in persons;

21. Recommends to the Committee on the Rights of the Child, which is to be set up in accordance with article 43 of the Convention on the Rights of the Child, to devote full attention to the phenomena which most gravely impair the rights of the child, in particular contemporary forms of slavery such as the sale of children, child prostitution and child pornography, the exploitation of child labour and bonded labour.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVII.]

1990/31. Programme of action for the elimination of the exploitation of child labour

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of the report of its Working Group on Contemporary Forms of Slavery on the work of its fifteenth session (E/CN.4/Sub.2/1990/44), the main theme of which was elimination of the exploitation of child labour and debt bondage,

Recognizing the extremely serious nature of the information presented and the need for the international community urgently to adopt measures to prevent such practices,

Considering that it is therefore desirable to launch a concerted programme of action as soon as possible,

1. Endorses the programme of action drawn up for this purpose by its Working Group on Contemporary Forms of Slavery;

2. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Having examined the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1990/44) submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-second session;

Having taken note with deep anxiety of the information relating to the world-wide phenomenon of the exploitation of child labour,

Noting also that most of the victims of such exploitation are children from countries of the third world facing development problems,

Gravely concerned about the consequences of these practices for the children who are their victims,

Having examined the various elements of the programme of action proposed by the Sub-Commission,

1. Endorses the views expressed by the Sub-Commission on the need to adopt a concerted programme of action to combat these practices;

2. Decides to transmit the attached draft programme of action to Governments, to the specialized agencies and other intergovernmental organizations, and also to non-governmental organizations, for their comments;

3. Requests the Secretary-General to submit to the next session of the Commission a summary of the replies received;

4. Further decides to examine, at its forty-eighth session, the draft programme of action and the report of the Secretary-General.

Programme of action for the elimination of the exploitation of child labour

General

1. In spite of the progress made in combating the exploitation of child labour, in particular through the development of national and international norms which have defined the bases of legal protection, and of mechanisms for monitoring their application, the exploitation of child labour still remains a current and widespread phenomenon of a serious nature in various parts of the world.

2. This phenomenon, which is both complex and world-wide, varies from one country to another. Although the industrialized countries are not spared, it affects the developing countries more particularly, and within each country

the more vulnerable groups of the population. Poverty is often the main cause of child labour, but generations of children should not be condemned to exploitation until poverty is overcome. Underdevelopment cannot justify the exploitation of which children are the victims. The Governments concerned and the international community as a whole must not wait for development problems to be adequately solved before attacking the phenomenon of the exploitation of child labour. Besides the long-term action which should be initiated with a view to treating the deep causes underlying the exploitation of child labour, it is essential that urgent measures and medium- and short-term action be taken to meet the immediate needs of the children who are exposed to the gravest dangers, while making sure that such action is integrated into economic and social development strategies.

3. High priority should be given to the eradication of the most odious forms of child exploitation, in particular child prostitution, pornography, the sale of children, the employment of children in dangerous occupations and debt bondage.

4. The international community should place particular emphasis on the new phenomena of the exploitation of child labour, such as the use of children for illegal, clandestine or criminal purposes, including their implication in the narcotic drugs traffic or in armed conflicts or military activities.

5. The action should be directed, first, towards the most dangerous forms of child labour and the elimination of work by children under 10 years of age, with a view to the total eradication of child labour as prohibited by the provisions of the relevant international instruments.

6. Special attention should be paid to the most vulnerable categories of children: children of immigrants, street children, children of minority groups, indigenous children, refugee children, children in occupied territories and those under the apartheid régime.

7. In order to reach the core of one of the prime causes of exploitation of child labour, which is poverty, increased resources should be made available through bilateral and multilateral channels for the elimination of the exploitation of child labour. Eradication of the phenomena linked with the exploitation of child labour calls for social measures and development assistance. Their prevention will require deep structural reforms in the economic, social and cultural spheres.

8. Particular attention should also be given to social rehabilitation, education and information. It is important that the means of protecting children should be strengthened by development, the reinforcement of legislation and proper application of the relevant laws.

9. Adequate means and concerted measures are necessary at the local, national, regional and international levels.

Information

10. The public could be made aware of the problem and the different aspects of the exploitation of child labour by national and international information campaigns. The extent of the problem cannot be accurately defined by reference to the statistics from various sources. The sectors favouring the exploitation of child labour should be specially targeted (agriculture, non-structured urban sector and domestic service). It is important to reach the children who are the invisible victims of parallel employment networks. At the national level it is necessary to develop means of investigation and supervision by labour inspectors in order to detect and prosecute cases of exploitation of child labour, so as to break up the clandestine employment networks. The information campaign should also be able to reach children direct, in order to inform them of their rights and make them aware of the risks they run.

Education and vocational training

11. There is undoubtedly a link between child labour, illiteracy, school failure and the lack of vocational training. Massive literacy programmes, combined with legislation making basic training obligatory and free, as well as measures to combat school wastage and develop vocational training, are extremely necessary. Such programmes could be supported by community campaigns to increase the awareness and motivation of families.

Social action

12. The economic and social causes of the persistence of child labour, including the fact that it is seen in many cases as a means of survival for the children and their families, should be taken up in order to offer an alternative that will take the children out of the circle of poverty and exploitation. Urgent measures could be taken on behalf of children who are subjected to high physical and moral risks. It is important to give them protection and assistance, including social and medical assistance, while at the same time pursuing the objective of eradication of child labour. These urgent measures should be backed up by programmes of social rehabilitation.

Development aid

13. For many countries, the implementation of local, regional and national programmes on behalf of children requires appropriate international aid and a deeper commitment of the international community, whether through specific projects or through development assistance.

Labour standards and their application

14. States should adhere to the international standards in force and ensure that they are rigorously applied. It is important that, in accordance with article 1 of ILO Convention No. 138, States should undertake "to pursue a national policy designed to ensure the effective abolition of child labour and so to raise progressively the minimum age of admission to employment or work to a level consistent with the fullest physical and mental development of young person". National legislation should explicitly prohibit dangerous or high-risk employment and prescribe penalties for employers who break this law. In at least three cases the exploitation of child labour is no less than a flagrant crime which violates the Charter of the United Nations, the principles of the Charter and the Universal Declaration of Human Rights, the most elementary principles of morality and all positive laws. Energetic repressive action is called for in these cases, namely:

(a) Sale and similar practices (serfdom, bond service, fake adoption, abandonment);

(b) Child prostitution, trafficking in pornography, involving the sexuality of children, and international traffic in girls and boys for immoral purposes;

(c) Under-age maidservants in a position of servitude.

Duties of States

15. States should fully apply the provisions of the Declaration of the Rights of the Child of 20 November 1959 (General Assembly resolution 1386 (XIV)), and more particularly:

Principle 2, according to which "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity".

Principle 9, according to which "The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form".

16. States should consider the possibility of ratifying the Convention on the Rights of the Child as soon as possible and in this context should fully implement, in particular, article 32, which reads as follows:

"1. States parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article."

17. Noting that over 40 countries have ratified ILO Convention No. 138, those that have not done so should take appropriate steps to ratify this Convention. In this connection, greater assistance from ILO should be extended to the developing countries to facilitate their increased participation in standard-setting activities and in the implementation of ratified conventions.

18. States should sign and implement policies and programmes to narrow the gap between legislation and its implementation in practice.

19. States which have not already done so should review their legislation in the field of child labour with a view to absolute prohibition of employment of children in the following cases:

(a) Employment before the normal age of completion of primary schooling in the country concerned;

(b) Under-age maid service;

(c) Night work;

(d) Work in dangerous or unhealthy conditions;

(e) Work concerned with trafficking in and production of illicit drugs:

(f) Work involving degrading or cruel treatment.

20. States should take preventive and curative measures, including the strengthening of their legislation, to combat the phenomena of the exploitation of child labour, such as the use of children for illegal, clandestine or criminal purposes, including the traffic in narcotic drugs or in armed conflicts or military activities, or any other form of conflict.

21. States should, where necessary, undertake development programmes with a view to:

(a) Making primary education compulsory and available free to all;

(b) Assisting and encouraging families in order that their children may continue their education, in order to combat the phenomenon of school drop-outs;

(c) Adapting school curricula to the preparation of a child for a career;

(d) Improving the training programmes of professional workers dealing with child labour, in particular labour inspectors, social workers and magistrates, with a view, in particular, to making them more sensitive to the needs of children;

(e) Establishing or improving medical services for children.

22. States should ensure the availability of a sufficient number of work inspectors and train them systematically to deal with cases of exploitation of child labour. Particular attention should be given to national and regional plans for social and economic development to the occupational training of young people. National development plans should also include a section devoted particularly to the employment of young people, and to methods of ensuring that the most deprived have sufficient resources to be able to protect themselves from conditions leading to exploitation.

23. All member States should endeavour to establish national agencies or institutions to promote the rights of children and to protect them from any form of exploitation.

Role of United Nations organs and specialized agencies

24. The International Labour Organisation should be encouraged in its activities within the framework of its work programme relating to child labour. Other specialized agencies and United Nations organs should develop or reinforce their activities in the field of child labour.

25. All competent United Nations agencies, development banks and intergovernmental bodies involved in development projects should ensure that no child is employed either directly or through local sub-contractors.

26. The United Nations and specialized agencies, having regard to their special responsibilities in the field of child labour, should pay special attention to the situation of children in South Africa and in the occupied Arab territories.

27. While the question of exploitation of child labour should primarily be dealt with in the International Labour Organisation, the United Nations human rights organs should continue to be concerned with this question in the framework of the rights of the child in general. The Sub-Commission should continue to have responsibility in this field.

28. The United Nations and the specialized agencies, including the United Nations University, should continue to incorporate in their programmes a series of interdisciplinary and multinational projects for comparative research into the various aspects of the exploitation of child labour throughout the world and in particular in the countries of Africa, Asia and Latin America.

29. The United Nations and the specialized agencies should reinforce their programmes related to the elimination of the exploitation of child labour, and in particular to the study of the economic, social, legal and cultural factors which give rise to it.

Co-operation at the local, national and international levels

30. All principal steps should be taken by Governments, international organizations and non-governmental organizations to increase awareness, amongst children, parents, workers and employers, of the causes and the adverse effects of child labour, and measures to combat its exploitation. Such steps could include the wider dissemination of relevant international instruments translated, where appropriate, into other languages in addition to the official languages of the United Nations.

31. Support should be given to non-governmental organizations concerned with the problem of child labour, particularly at the community level, and a constructive partnership should be evolved between Governments and non-governmental organizations.

32. The United Nations organs and specialized agencies dealing with the problem of child labour should seek the co-operation of national and international trade unions.

33. Appropriate and necessary forms of support should be given to non-governmental organizations at all levels, especially community organizations, concerned with the problem of child labour.

34. Concerned United Nations organs and specialized agencies should examine the possibility of promoting an information campaign among villagers, employers, parents, children and other groups, in countries where child labour exists.

35. Members of the international community should co-operate in order to assist developing countries in creating conditions under which child labour could be entirely eradicated.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVII.]

1990/32. Report on human rights and youth prepared by Mr. Dumitru Mazilu

Noting with appreciation the updated report submitted for the first time by Mr. Dumitru Mazilu personally after his long forced absences from our debates,

Further noting the difficult circumstances in which this report was prepared and that the information collected by the Secretary-General relating to the subject has been delivered to Mr. Mazilu only a few weeks ago,

Recalling its debate on this subject during its fortieth, forty-first and forty-second sessions,

Aware of the great importance of the subject of human rights and youth,

1. Decides to request Mr. Mazilu to update and complete his report in the light of the discussion during the Sub-Commission's forty-second session, the new information collected by the Secretary-General and any other pertinent information;

2. Decides to invite Mr. Mazilu to present a progress report at its forty-third session;

3. Requests the Secretary-General to continue to gather and furnish to Mr. Mazilu information relating to his study, and to provide Mr. Mazilu with all the assistance he might need in completing his report, including consultation with the Centre for Human Rights.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XVIII.]

B. DECISIONS

1990/123. Right of everyone to leave any country, including his own, and to return to his country

At its 35th meeting, on 31 August 1990, the Sub-Commission decided to establish, at its forty-third session, a sessional open-ended working group with the view to continuing to work on the preparation of a revised version of the draft declaration on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country (E/CN.4/Sub.2/1988/35 and Add.1, annex I).

The Sub-Commission further decided to ask Mr. W. Sadi to prepare, without financial implications, a revised version of the above-mentioned draft declaration, on the basis of the discussions in the open-ended working group at its forty-second session and the comments and proposals contained in document E/CN.4/Sub.2/1990/47, to be submitted next year for analysis and discussion by the working group with a view, if possible, to its submission to the Sub-Commission at its forty-third session.

It further decided, if appropriate, to invite the Special Rapporteur, Mr. Mubanga-Chipoya, to be present in Geneva during the meetings of the working group.

35th meeting
31 August 1990

[Adopted without a vote. See chap. XX.]

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Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session
Agenda item 21

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SECOND SESSION

Rapporteur: Mr. Gilberto Vergne Saboiá

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*/ E/CN.4/Sub.2/1990/L.10 and addenda contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to the Economic and Social Council are contained in documents E/CN.4/Sub.2/1990/L.11 and addenda.

1990/33. Draft declaration on the protection of all persons from enforced or involuntary disappearances

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolution 33/173 of 20 December 1978 by which the Assembly expressed concern about the reports from various parts of the world relating to enforced or involuntary disappearances and called upon Governments to hold law enforcement and security forces legally responsible for unjustifiable excesses which might lead to enforced or involuntary disappearances,

Recalling also Commission on Human Rights resolution 1990/30 of 2 March 1990, by which the Commission expressed its appreciation to the Working Group on Detention of the Sub-Commission for the progress made in the preparation of the first draft of a declaration on the protection of all persons from enforced or involuntary disappearances and invited the Sub-Commission to finalize the draft as soon as possible,

Recalling further the reports of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights (E/CN.4/1985/15, para. 302 (c) and E/CN.4/1988/19, para. 251 (b)) in which it called for the drafting of an international instrument to combat enforced or involuntary disappearance,

Taking note with appreciation of the valuable contributions of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights and of various non-governmental organizations in the drafting of an international instrument to combat enforced or involuntary disappearances,

Having examined the report of its Working Group on Detention (E/CN.4/Sub.2/1990/32) and, in particular, the annexed draft declaration on the protection of all persons from enforced or involuntary disappearances, which the Working Group has recommended for approval,

1. Expresses its appreciation for the work achieved by the Working Group on Detention;

2. Adopts the draft declaration on the protection of all persons from enforced or involuntary disappearances (E/CN.4/Sub.2/1990/32, annex);

3. Transmits the draft declaration to the Commission on Human Rights for its consideration, with the recommendation that it be endorsed and transmitted to the Economic and Social Council and the General Assembly for final adoption.

36th meeting
31 August 1990

[Adopted without a vote. See chap. XI.]

1990/34. Relocation of Navajo and Hopi families

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its decisions 1987/110 of 4 December 1987 and 1988/105 of 1 September 1988 and the reports of two of its members on the relocation of Navajo and Hopi families in the United States (E/CN.4/Sub.2/1989/35, Part I and Part II and Add.1),

Guided by its resolution 1989/37 of 1 September 1989, which welcomed the initiatives taken by the Navajo Nation and Hopi Tribe to resolve this situation by agreement,

Appreciating the recent positive co-operation between the Navajo Nation and Hopi Tribe regarding coal and water use, legislation on ancient burial sites, the Navajo-Hopi airport project and the establishment of the joint Navajo-Hopi Relocation Task Team,

Having examined the report of the eighth session of the Working Group on Indigenous Populations (E/CN.4/Sub.2/1990/42),

Conscious of the complex historical factors which are responsible for the present situation,

Mindful of the role the United Nations could play in facilitating the resolution of situations involving indigenous peoples,

1. Welcomes the initiatives recently taken by the Navajo Nation and Hopi Tribe to work together on issues of mutual concern;

2. Encourages the Navajo Nation and the Hopi Tribe to pursue further the initiatives they have taken to resolve the relocation situation by agreement, with the effective participation of the families and communities affected in the negotiation and implementation of any settlement;

3. Reiterates its belief that human rights and fundamental freedoms must be respected by institutions of local, internal or autonomous self-government, no less than by States;

4. Requests its Chairman to convey copies of this resolution to the interested parties along with assurances of the continuing interest of the Sub-Commission in an early and equitable resolution of the situation.

36th meeting
31 August 1990

[Adopted without a vote. See chap. XVI.]

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Sub-Commission on Prevention of
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of Minorities
Forty-second session
Agenda item 21

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SECOND SESSION

Rapporteur: Mr. Gilberto Vergne Saboia

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*/ E/CN.4/Sub.2/1990/L.10 and addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to the Economic and Social Council are contained in documents E/CN.4/Sub.2/1990/L.11 and addenda.

B. DECISIONS

1990/124. Working Group on Detention

At the 36th meeting, on 31 August 1990, the Sub-Commission decided, without a vote, to take note of the report of its Working Group on Detention (E/CN.4/Sub.2/1990/32).

[See chap. XI.]

1990/125. Working Group established pursuant to Sub-Commission decision 1989/104

At the 36th meeting, on 31 August 1990, the Sub-Commission decided, without a vote, to take note of the report of its Working Group established pursuant to Sub-Commission decision 1989/104 (E/CN.4/Sub.2/1990/14) and that the Working Group should continue its work at the forty-third session of the Sub-Commission.

[See chaps. III and VII.]

1990/126. Composition of the Working Groups of the Sub-Commission

At its 36th meeting, on 31 August 1990, the Sub-Commission approved the following composition of its working groups:

Regional Groups	Communications	Indigenous Populations	Slavery
Africa	Mr. Yimer	Ms. Mbonu	Ms. Ksentini
	Mr. Ilkahanaf */		Mr. Guissé */
Asia	Mr. Tian Jin	Mr. Hatano	Mr. Sadi
	Mr. Zhan Daode */	Mr. Yokota */	
Latin America	Mr. Heller	Mr. Alfonso Martínez	Mr. Suescún Monroy
	Mr. Despouy */	Mrs. Zelner Gonçalves */	Mr. Despouy */
Eastern Europe	Mr. Ramishvili	Mr. Türk	Ms. Diaconu
Western Europe	Mr. van Boven	Ms. Daes	Ms. Palley
and others	Mr. Treat */	Mr. Eide */	Mr Joinet */

[See chaps. X, XVI and XVII.]

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*/ Alternate.